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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|--|-------------|----------------------|------------------------------|------------------|
| 10/591,347 | 03/18/2009 | Yardena Samuels | 001107.00617 | 6442 |
| 22907 7590 08/04/2010 BANNER & WITCOFF, LTD. 1100 13th STREET, N.W. SUITE 1200 WASHINGTON, DC 20005-4051 | | | EXAMINER GODDARD, LAURA B | |
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.



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AUG 04 2010

BANNER & WITCOFF, LTD.
1100 13th STREET, N.W.
SUITE 1200
WASHINGTON DC 20005-4051

In re Application of:
Samuels et al.

Serial No.: 10/591,347

Filed: August 31, 2006

Docket: 001107.00617

Title: **MUTATIONS OF THE PIK3CA GENE
IN HUMAN CANCERS**

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:
: DECISION ON PETITION TO
: MAKE SPECIAL FOR NEW
: APPLICATION UNDER 37
: C.F.R. § 1.102 & M.P.E.P. §
: 708.02

This is a decision on the petition filed on July 16, 2010 to make the above-identified application special for accelerated examination procedure under 37 C.F.R. § 1.102(d).

The petition to make the application special is **DENIED**.

REGULATION AND PRACTICE

To be eligible for accelerated examination under 37 C.F.R. § 1.102(d) and pursuant to the "Change to Practice for Petitions in Patent Applications to Make Special and for Accelerated Examination" published in the Federal Register on June 26, 2006 (71 Fed. Reg. 36323), the following conditions must be satisfied:

1. The application must be a non-reissue utility or design application filed under 37 CFR 1.111(a);
2. The application, the petition and the required fees must be filed electronically using the USPTO's electronic filing system (EFS), or EFS-web; if not filed electronically, a statement asserting that EFS and EFS-web were not available during the normal business hours;
3. The application, at the time of filing, must be complete under 37 CFR 1.51 and in condition for examination;

Conditions for Examination: The application must be in condition for examination at the time of filing. This means the application must include the following:

- (A) Basic filing fee, search fee, and examination fee, under 37 CFR 1.16 (*see* MPEP section 607(I)),
- (B) Application size fee under 37 CFR 1.16(s) (if the specification and drawings exceed 100 sheets of paper) (*see* MPEP section 607(II));
- (C) An executed oath or declaration in compliance with 37 CFR 1.63;
- (D) A specification (in compliance with 37 CFR 1.52) containing a description (37 CFR 1.71) and claims in compliance with 37 CFR 1.75;
- (E) A title and an abstract in compliance with 37 CFR 1.72;
- (F) Drawings in compliance with 37 CFR 1.84;
- (G) Electronic submissions of sequence listings in compliance with 37 CFR 1.821(c) or (e), large tables, or computer listings in compliance with 37 CFR 1.96, submitted via the USPTO's electronic filing system (EFS) in ASCII text as part of an associated file (if applicable);
- (H) Foreign priority claim under 35 U.S.C. 119(a)–(d) identified in the executed oath or declaration or an application data sheet (if applicable);
- (I) Domestic benefit claims under 35 U.S.C. 119(e), 120, 121, or 365(c) in compliance with 37 CFR 1.78 (*e.g.*, the specific reference to the prior application must be submitted in the first sentence(s) of the specification or in an application data sheet, and for any benefit claim to a non-English language provisional application, the application must include a statement that: (a) An English language translation, and (b) a statement that the translation is accurate, have been filed in the provisional application) (if applicable);
- (J) English language translation under 37 CFR 1.52(d), a statement that the translation is accurate, and the processing fee under 37 CFR 1.17(i) (if the specification is in a non-English language);
- (K) No preliminary amendments present on the filing date of the application; and
- (L) No petition under 37 CFR 1.47 for a non-signing inventor.

4. The application must contain three or fewer independent claims and twenty or fewer total claims and the claims must be directed to a single invention.

The application as filed is not eligible for the accelerated examination under 37 C.F.R. § 1.102(d) because it was not in condition for examination as evidenced by applicants' failure to file this petition in accordance with the rules for accelerated examination and MPEP 708.02 which states "Any petition to make special, other than those based on applicant's health or age or the Patent Prosecution Highway (PPH) pilot program, filed on or after August 25, 2006 must meet the requirements for the revised accelerated examination program set forth in MPEP § 708.02(a). See subsections III and IV below for the requirements for filing a petition to make special based on applicant's health or age. Applications filed prior to August 25, 2006 are not eligible for the revised accelerated examination program set forth in MPEP § 708.02(a). Until August 25, 2006, applicant may file a petition to make special in an application filed prior to August 25, 2006 by complying with the guidelines and requirements set forth in subsections I-II, and V-XII below. A petition to make special filed on or after August 25, 2006 will only be granted if it is based upon applicant's health or age or is under the PPH pilot program, or if it complies with the requirements set forth in MPEP § 708.02(a)."

For the above-stated reasons, the petition is **DENIED**.

The application will therefore be taken up by the examiner for action in its regular turn.

Any inquiry regarding this decision should be directed to Marianne C. Seidel, Quality Assurance Specialist, at (571) 272-0584.

/MC Seidel/
Marianne. C. Seidel, Quality Assurance Specialist
Technology Center 1600